

PROPOSITION 39 REGULATIONS—DRAFT LANGUAGE

Average Daily Classroom Attendance

Section _____. “Average daily classroom attendance,” or “classroom ADA,” is the portion of total average daily attendance (ADA) reported for funding purposes that is attributable to time a student spends receiving classroom instruction at a school site under the direct supervision of a qualified teacher.

In-district Students

Section _____. “In-district students” means students who both reside in the school district from which the charter school requests facilities and are eligible to attend district schools. The school district in which a student resides is the school district in which the residence of either the parent or legal guardian is located. “In-district students” also includes students who are eligible to attend public schools in the school district under EC 48204(a, c, d, and e). “In-district students” does not include students who have received permission for inter-district attendance under EC 46600 et. seq.

Conditions Reasonably Equivalent

Section _____. A school district and charter school may mutually agree to the facilities and furniture and equipment that will be provided for the use by the charter school. If the district and charter school are unable to mutually agree, the following factors shall be used to determine reasonably equivalent.

1) Basis for comparison

- a) The facilities available to the school district for serving grade levels served by the charter school shall be the standard by which “reasonably equivalent” is measured. If the school district provides multiple program options, the program with the greatest percentage of enrollment at the grades to be served by the charter school shall be used in determining “reasonably equivalent.”
- b) At charter sites that share a campus with a school district-operated program, the sharing of facilities shall be considered as providing “reasonably equivalent” facilities.
- c) At conversion sites, the facilities previously used by the school district at the conversion site shall be considered to be “reasonably equivalent.”
- d) Separate self-contained classroom spaces are not necessary in order to be considered “reasonably equivalent”
- e) “Contiguous” space is defined as the building and play area contained on the school site or immediately adjacent to the school site. If the space is immediately

adjacent to the school, the access of students and staff shall not be inhibited by traffic, railroads or other safety hazards.

If the in-district average daily attendance of the charter school exceeds the capacity of any district school site, the charter school and the school district may agree to provide some educational opportunities in a non-contiguous setting. The school district and the charter school shall develop a plan for safely transporting the in-district students to the non-contiguous site.

2) Size of space

- a) The in-district charter school students are provided not less than 90% of the total square footage per student in each grade as was provided by the school district for that grade in 2000-01.
- b) The in-district charter school students are provided not less than 90% of the classroom square footage per student in each grade as was provided by the school district for that grade in 2000-01.
- c) The number of in-district charter school students per acre does not exceed 110% of the number for the school district for that grade in 2000-01.
- d) The provided space is of a configuration typically used by the district to serve the grades requested by the charter.
- e) A school district that has a majority of its school sites at a grade level operating on a multi-track year-round education program may provide the charter school space as needed for operating the charter school on a multi-track year-round education calendar.
- f) Compliance with Education Code 17280 et seq. (Field Act) is not a measure of "reasonably equivalent" unless specified in the charter.

3) Condition of space

- a. "Reasonably equivalent" for the condition of space shall be measured using the Facilities Inspection Summary, Appendix 10, of the CDE Educational Specifications Document, dated 1997. The school district and the charter school may mutually agree to other factors. If the district has a board-adopted standard for the condition of a school, that standard may be used instead of the Facilities Inspection Summary.
- b. Only the schools in the attendance area where the charter school wants to locate shall be used in the evaluation of the condition of space.

OR

The three district schools with the largest number of in-district charter students living in the schools' attendance area shall be used in the evaluation of the condition of space.

4) Furniture and equipment

The furniture and equipment provided by the school district to the charter school is approximately the same age and condition of that provided in the school in the attendance area where the charter wants to locate. Furniture and equipment is defined as movable items that are readily transportable and able to be used in another location with minimal disassembly and assembly. Examples include, but are not limited to, desks, bookcases not attached to a floor or wall, and projection screens.

OR

The furniture and equipment provided by the district to the charter is approximately the same age and condition of that provided in the three district schools with the largest number of in-district charter students living in the schools' attendance area. Furniture and equipment is defined as movable items that are readily transportable and able to be used in another location with minimal disassembly and assembly. Examples include, but are not limited to, desks, bookcases not attached to a floor or wall, and projection screens.

5) Dispute resolution

The dispute resolution process specified in Section _____ shall be used to resolve any differences on "reasonably equivalent" facilities and furniture and equipment.

Section _____. The continuing maintenance of facilities and provision of replacement furniture and equipment is the responsibility of the charter school. Routine long-term maintenance and up-keep of the building, including, but not limited to, such items as major re-roofing and structural upgrades and correction, shall remain the responsibility of the school district. The school district may require that the charter school comply with board-adopted policies and regulations regarding the maintenance of the school facility and the replacement of furniture and equipment.

Charges for Facilities Costs

Section _____. The school district may charge the charter school for the use of the facilities. The charge shall not exceed (a) those school district facilities costs that the school district pays for with unrestricted general fund revenues, times (b) the ratio of space allocated by the school district to the charter school, divided by the total space of the district.

- a) For purposes of this section, facilities costs includes those costs associated with facilities acquisition and construction, and facilities rents and leases, consistent

with the definitions used in the *California School Accounting Manual*. This includes, but is not limited to, activities concerned with acquiring land and buildings, remodeling buildings, constructing buildings and additions to buildings, initially installing or extending service systems and other built-in equipment, initially purchasing furniture and equipment for new facilities, and improving sites. Facilities costs may also include the school district's contribution of deferred maintenance matching funds, if paid with unrestricted general fund revenues.

- b) For purposes of this section, facilities costs do not include those expenditures related to activities to keep the physical plant and grounds open, clean, comfortable and in working condition and a state of repair. This is not intended to preclude school districts and charter schools from separately negotiating agreements for the provision of maintenance and operations services, including utilities, and replacement of furniture and equipment.
- c) If a school district elects to charge a charter school a pro rata share of facilities costs in accordance with this section, and if those costs are being financed by the district with debt proceeds, the district shall charge the charter school its pro rata share of those debt service costs used to construct the facilities, rather than charging the pro rata share of the actual facilities costs.

Reimbursement Rates for Over-allocated Space

Section _____. Space is considered to be over-allocated if (a) the charter school's actual P-2 in-district classroom ADA is less than the projected in-district classroom ADA upon which the facility allocation was based and (b) the difference is at least 20 ADA or 5 percent of projected in-district classroom ADA, whichever is greater. The per-pupil rate for over-allocated space shall be equal to the greater of (a) the statewide average cost avoided per pupil set pursuant to EC 42263 or (b) the district's facilities costs paid from unrestricted General Fund revenues, as determined pursuant to Section____, per actual P-2 ADA. To determine the reimbursement amount owed by the charter school for over-allocated space, this rate shall be applied to the difference between the charter school's actual P-2 in-district classroom ADA and the projected in-district classroom ADA upon which the facility allocation was based.

Upon notification by a charter school that the charter school anticipates having over-allocated space, a school district may elect to use the space for district programs. If the district elects to use the space, payments for over-allocated space and the pro rata share payments shall be reduced accordingly.

Procedures and Timelines for the Request for, Reimbursement for, and Provision of, Facilities

Section _____.

- a) A charter school is entitled to receive facilities from a school district in which it wishes to locate, whether or not that district approved the charter, subject to the limitations in E.C. Section 47614.
- b) To be eligible to receive facilities during a particular fiscal year, a charter school must submit a facilities request to the school district in which it wishes to locate by January 1 of the previous year. The charter school must be operating as defined in E.C. Section 47614 before it submits a request for facilities. The request must include (a) a reasonable projection of in-district classroom ADA, (b) a description of the methodology for the projection and, if relevant, documentation of the number of in-district students meaningfully interested in attending the charter school, (c) information regarding where the charter school wishes to locate within the school district's boundaries, and (d) information on the charter school's educational program that is relevant to assignment of facilities.
- c) The school district shall establish timelines and procedures for reviewing projections and providing the charter school a reasonable opportunity to respond to any concerns raised by the school district. The timelines must provide for school district notification of the charter school of the space allocated to it and the reimbursement amount (pro-rata share) associated with the space by April 1.
- d) The pro-rata share amount shall be based on actual facilities costs in the prior year, the space available in the school district in the prior year, and the P-2 ADA in the prior year. The notification must include the in-district classroom ADA assumptions for the charter school upon which the allocation is based.
- e) The charter school must notify the school district whether or not it intends to occupy the allocated space. This notification must occur by May 1. After notifying the school district it intends to occupy the allocated space, the charter school is committed to paying the pro-rata share amount as identified.
- f) The school district must make the allocated space available for occupation by the charter school. The space must be furnished, equipped, and available for occupancy at least 15 days prior to the first day of instruction in the school district's school year or 15 days prior to the first day of instruction of the charter school, whichever is later.
- g) The school district and the charter school shall negotiate an agreement regarding use of and payment for the space. The agreement shall contain at a minimum, the following provisions:

The agreement shall provide that the allocated space is for the exclusive use of the charter school and may not be sublet without permission of the school district.

The agreement shall include standards for maintaining the facilities.

The agreement shall include the payment schedule for the pro-rata share and the amount due for over-allocated space, if any. The schedule shall generally conform to the schedule of payments from the state.

The agreement shall include a process for resolving facilities-related disputes between the charter school and the school district. If the school district is the agency that approved the charter school, the dispute resolution process may be the same as the process identified in the charter.

- h) If a facilities-related dispute arises before an agreement has been negotiated between the charter school and the school district, the dispute shall be resolved using the procedure defined in..... If the school district is the agency that approved the charter school, the dispute shall be resolved using the process identified in the charter.
- i) The charter school must notify the school district of actual in-district classroom ADA every time that it reports ADA for funding purposes. The charter school must keep records documenting actual in-district classroom ADA. These records shall be available on request by the school district for verification purposes.
- j) A charter school must notify the school district when it anticipates that it will have over-allocated space that could be used by the school district. The school district must exercise its option of using the over-allocated space within 30 days of the notification by the charter school.
- k) The charter school and the school district may negotiate separate reimbursement arrangements for specific services not considered part of facilities costs (for example, for janitorial services, minor repairs, utilities, etc.).
- l) The charter school and the school district may mutually agree to establish different timelines and procedures than provided in this section for request for, reimbursement for, and provision of, facilities.